



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,291	11/04/2003	Bradley S. Berggren	(50035) 60056	5208

21874 7590 01/19/2007  
EDWARDS & ANGELL, LLP  
P.O. BOX 55874  
BOSTON, MA 02205

EXAMINER
----------

LARSON, JUSTIN MATTHEW

ART UNIT	PAPER NUMBER
----------	--------------

3782

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/701,291	<b>Applicant(s)</b> BERGGREN, BRADLEY S.	
	<b>Examiner</b> Justin M. Larson	<b>Art Unit</b> 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 October 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Pesce (US 6,338,429 B1).

Regarding claims 1 and 2, Pesce discloses a viewing platform (10) for a portable electronic device (8) comprising an elongated base defining a front end portion (bottom half portion) dimensioned and configured such that it is capable of attaching to a center console located between two adjacent seats (9) and a rear end portion (top half portion), wherein the front end portion and the rear end portion are in substantially the same plane, a stage (18) formed by a rectangular frame (28) provided at the rear end portion of the base configured and adapted to present a portable electronic entertainment device to persons situated behind the two adjacent seats, and a fastener (52) operatively associated with the front end portion of the base. The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Pesce which is capable of being used in the intended manner, i.e., the platform being attached to the center console in a vehicle. There is no structure in Pesce that would prohibit such functional intended use (see MPEP 2111).

Regarding claim 4, Pesce discloses that stage (18) has an outer surface (26) that is roughened so that the electronic device does not slide (col. 3 lines 62-64), effectively satisfying the limitations of the claim.

Regarding claim 9, the platform of Pesce includes a storage compartment (36) adjacent the front end portion thereof.

3. Claims 1, 2, 5, 6, 9-11, 14, 15, and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Gioso (US 4,512,503 A).

Regarding claims 1 and 2, Gioso discloses a viewing platform (10) comprising an elongated base defining a front end portion dimensioned and configured such that it is capable of attaching to a center console located between two adjacent seats and a rear end portion, wherein the front and rear end portions are in substantially the same plane, a stage (38) formed by a rectangular frame (sidewalls) provided at the rear end portion of the base, and a means (94/96/98/100/102,106) operatively associated with the front end portion of the base for securing the base to a supporting structure. The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Gioso which is capable of being used in the intended manner, i.e., the platform being secured to a center console in a vehicle using the disclosed fasteners and an electronic device being supported on the stage for the viewing of persons situated behind the two adjacent seats. There is no structure in Gioso that would prohibit such functional intended use (see MPEP 2111).

Regarding claims 5, 6, and 14 the means for securing the base to the supporting structure, as disclosed by Gioso, includes at least one adjustable strap (94) and at least one channel (96,98,100,102) to accommodate the at least one adjustable strap.

Regarding claims 9 and 18, the platform of Gioso includes a storage compartment (70) adjacent the front end portion thereof.

Regarding claims 10 and 11, the claims include limitations of claims 1, 2, and 5 that have already been shown to be unpatentable over Gioso and further include functional language describing the way in which the base is oriented within a vehicle. The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Gioso which is capable of being used in the intended manner, i.e., the base being supported between the front seats of an automobile such that the rear end portion of the base projects into the rear seating area of the automobile in a cantilevered manner, presenting the stage to passengers in the rear seating area. There is no structure in Gioso that would prohibit such functional intended use (see MPEP 2111).

Regarding claim 15, the at least one channel (96,98,100,102) of Gioso are not formed on the lowermost or bottom surface of the base and can therefore be considered to be formed on an upper surface of the base in relation to this lowermost or bottom surface, effectively satisfying the limitations of the claim.

Regarding claims 19 and 20, the claims include limitations of claims 10 and 14 that have already been shown to be unpatentable over Gioso and claim 19 further

Art Unit: 3782

recites that the at least one channel extends perpendicular to the longitudinal axis of the base. Note that both of the channels (96 and 98) of Gioso are each attached at two points that lie on a plane (16) perpendicular to a longitudinal axis of the base, effectively satisfying the limitations of the claims.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pesce as applied in paragraph 2 above in view of Dykstra et al. (US 6,874,667 B2).

Pesce discloses the claimed invention except for the base being constructed of wood, although Pesce does mention that a variation in material structure would be readily apparent and obvious to one skilled in the art.

Dykstra et al. also discloses a cargo platform system and teaches that plastic and wood are both possible material choices for the system (col. 3 lines 47-52). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the platform system of Pesce out of wood, as taught by Dykstra et al., since it is known in the art to use such a material for in-vehicle cargo platform systems.

6. Claims 1-3, 5-7, 9-12, 14-16, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mankey above in view of Gioso, and further in view of Jorgensen (US 6,293,447 B1).

Regarding claims 1, 2, 5, and 6, Mankey discloses a viewing platform (10) comprising an elongated base defining a front end portion dimensioned and configured such that it is capable of attaching to a center console located between two adjacent seats and a rear end portion, wherein the front and rear end portions are in substantially the same plane, a stage (23) formed by a rectangular frame (sidewalls) provided at the rear end portion of the base, and a means (40) operatively associated with the front end portion of the base for securing the base to a supporting structure. The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Mankey which is capable of being used in the intended manner, i.e., supporting a portable electronic entertainment device on the stage (23). There is no structure in Mankey that would prohibit such functional intended use (see MPEP 2111).

Mankey fails to disclose a fastener in the form of an adjustable strap operatively associated with the front end portion of the base for securing the base to a center console. Jorgensen, however, teaches that it is known in the art to provide adjustable straps on a support platform in order to secure the base of the platform to a supporting structure located between the front seats of a vehicle. Gioso teaches the use of channels (96 or 98) on an upper surface of the base and an adjustable strap (94) for securing the base of a platform support to a supporting surface. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include channels and adjustable straps on the platform support of Mankey, as taught by Gioso, so that the platform of Mankey could also be attached to the supporting structure

between the front seats of a vehicle, as motivated by Gioso, for easy access by those passengers riding in the front seats.

Regarding claim 3, Mankey shows the frame (sidewalls of stage 23) having two apertures that are capable of accommodating a power cable associated with an electronic device supported on the stage, effectively satisfying the limitations of the claim.

Regarding claim 7, Mankey discloses the base being made of plastic (col. 2 lines 27-32).

Regarding claim 9, the platform of Mankey includes a storage compartment (21) adjacent the front end portion thereof.

Regarding claims 10-12, 14, 16, and 18, the claims combines structural limitations from claims 1-3, 5-7, and 9 that have already been shown to be unpatentable over the modified Mankey device. The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by the modified Mankey device which is capable of being used in the intended manner, i.e., the base being supported between the front seats of an automobile such that the rear end portion of the base projects into the rear seating area of the automobile in a cantilevered manner, presenting the stage to passengers in the rear seating area. There is no structure in the modified Mankey device that would prohibit such functional intended use (see MPEP 2111).



Regarding claim 15, the channel taught by Gioso is formed on an upper surface of the base of the modified Mankey device, as taught by Gioso.

Regarding claims 19 and 20, the modified Mankey device includes the claimed features, namely an elongated base with a longitudinal axis, the base defining a front end portion and a rear end portion at least one channel formed in an upper surface, a stage at the rear end portion, and at least one channel (as taught by Gioso) on an upper surface of the base within the front end portion and extending perpendicular to the longitudinal axis thereof for accommodating an adjustable strap. The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by the modified Mankey device which is capable of being used in the intended manner, i.e., the base being supported between the front seats of an automobile and supporting a portable video player. There is no structure in the modified Mankey device that would prohibit such functional intended use (see MPEP 2111).

7. Claims 4 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied in paragraph 6 above in view of Pesce.

The modified Mankey platform support includes the claimed limitations except for means for frictionally securing an object held upon the stage. Pesce, however, also discloses a platform support having a stage (18) and teaches that the surface (26) of the stage can be roughened to prevent an object held on the stage from slipping. It would have been obvious to one having ordinary skill in the art at the time the invention was made to roughen the surface of the stage of the modified Mankey device, as taught

by Pesce, in order to prevent objects held on the stage from sliding around and possibly falling off the stage.

8. Claims 8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Mankey platform support of paragraph 6 above in view of Dykstra et al.

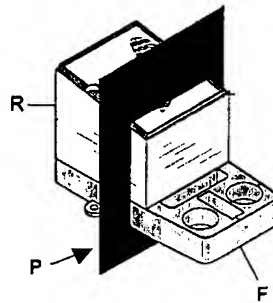
The modified Mankey platform support includes the claimed limitations except for the base being constructed of wood. Mankey discloses that while the preferred material structure is plastic, other materials may be used to make part or all of the platform (col. 2 lines 31-32).

Dykstra et al. also discloses a cargo platform system and teaches that plastic and wood are both possible material choices for the system (col. 3 lines 47-52). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the modified Mankey platform support out of wood, as taught by Dykstra et al., since it is known in the art to use such a material for in-vehicle cargo platform systems.

### ***Response to Arguments***

9. Applicant's arguments filed 10/17/06 with respect to Pesce have been fully considered but they are not persuasive. Applicant has asserted that Pesce neither teaches nor suggests the front end portion (top half portion) and rear end portion (top half portion) being in substantially the same plane. Applicant further asserts that Pesce neither teaches nor suggests an elongate base that defines a front end portion dimensioned and configured for attachment to a center console located between two adjacent seats.

Regarding the front and rear ends being in substantially the same plane, referring to the figure on the left below, the front and rear ends (F, R, below) both clearly exist in precisely the same plane (P).



Regarding the front end portion being dimension and configured for attachment to the center console, the front end (F) of Pesce is of such a size and shape that it is capable of being attached to the center console in a vehicle. Claim 1 recites only functional language implying that the front end is capable of being attached to the center console in a vehicle. Fasteners (52) could be used to secure the front end of Pesce to a center console if one so desired. Structurally, there is nothing stopping one from doing so. There is no language in the claim requiring that the front end be positively attached to the center console of a vehicle.

10. Applicant's arguments filed 10/17/06 with respect to Mankey have been fully considered and are persuasive. The rejection of claims 1-3, 7, and 9 under 35 U.S.C 102(b) using Mankey has been withdrawn. Mankey does not include a fastener that can be used to secure or attach the platform to a center console. The platform of Mankey merely rests upon a supporting surface without attachment.

11. Applicant's arguments filed 10/17/06 with respect to Gioso have been fully considered but they are not persuasive. Applicant has asserted that Gioso neither

teaches nor suggests the front end portion being dimensioned or configured for attachment to a center console located between two adjacent seats and that the organizer described by Gioso is wholly unsuited for attachment by any means to a center console. Applicant has also asserted that the organizer of Gioso is not configured for attachment to a center console because the organizer is itself a console and it would interfere with the use of an existing console if mounted on top of that console. Finally, Applicant has asserted that Gioso neither teaches nor suggests at least one channel formed in an upper surface of the base.

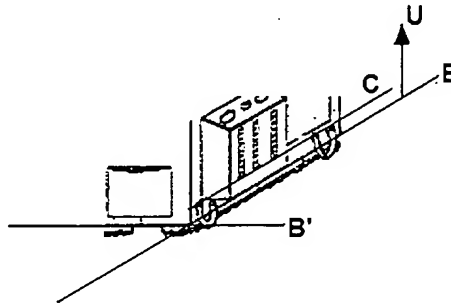
Regarding the front end portion being dimension and configured for attachment to the center console, the front end of Gioso is of such a size and shape that it is capable of being attached to the center console in a vehicle. Claims 1, 10, and 19 recite only functional language implying that the front end is capable of being attached to the center console in a vehicle. Fasteners (94 or 106) could be used to secure the front end of Gioso to a center console if one so desired. Structurally, there is nothing stopping one from doing so. There is no language in the claim requiring that the front end be positively attached to the center console of a vehicle.

Regarding the organizer itself being an organizer, Examiner is of the position that this does not make it impossible for a user to mount the organizer of Gioso to an already existing center console. Perhaps the existing console did not have the flat platform features like that of Gioso. In order to utilize such features, one could attach the organizer of Gioso on top of the existing console in order to utilize the more desirable features of Gioso at the cost of losing accessibility to the original console.

Art Unit: 3782

Examiner believes that because the organizer of Gioso is capable of such attachment, this argument is moot.

Regarding the existence of a channel in an upper surface of the organizer of Gioso, Examiner presents the following figure and explanation.



The figure above shows a portion of the front end of the Gioso organizer. Lines (B) and (B') have been drawn level with the bottom surface of the organizer. Examiner is of the position that any surface that is above the bottom surface in a direction (U) can be considered an upper surface to the degree that such a surface is above the bottom of the organizer. The channels of Gioso are shown to be attached to an upper surface at a level (C) which is clearly above the bottom surface of the organizer. The longitudinal axis of the surface on which the channels are attached can be considered to be that axis which is in the direction of (U) above. The channels are attached across the surface along line (C) making them perpendicular to the longitudinal axis (U).

12. Applicant's arguments filed 10/17/06 with respect to the combination of Mankey, Jorgensen, and Gioso have been fully considered but they are not persuasive. Applicant has asserted Mankey and Gioso fail to disclose devices dimensioned and configured for attachment to a center console located between two seats. Applicant has also asserted

Art Unit: 3782

that none of Mankey, Gioso, or Jorgensen disclose the claimed channels on an upper surface of the device. Applicant has further asserted that there is no motivation for combining the references and that hindsight reasoning was relied upon in combining these references. Finally, Applicant has asserted that the modified Mankey device fails to include the features of claims 2, 3, 5-7, 9, 11, 12, 14-16, 18, and 20.

Regarding the attachment to a center console, the device of Mankey is certainly capable of such attachment. Further, Jorgensen teaches that it is already known in the art for platforms to be attached to such a center console.

Regarding the channels, Examiner directs Applicant to paragraph 11 above which discusses the channels of Gioso. These channels have been implemented on the device of Mankey in order to provide a means for securing the device to a supporting structure.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, motivation was found in the knowledge generally available to one of ordinary skill in the art. One of ordinary skill in the art would learn from Jorgensen and Gioso that attachment straps can be attached to an organizer/stage for securing the organizer/stage to a supporting

Art Unit: 3782

surface. One of ordinary skill would recognize that such attachment straps could be attached to any organizer/stage in order to secure that organizer/stage to its supporting surface. It follows that it would have been obvious to one having ordinary skill in the art when looking at the device of Mankey to include adjustment straps as taught by Jorgensen and Gioso, as no such attachment was present in the device of Mankey and the device was vulnerable to tipping over or sliding around within a vehicle.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Regarding the features of claims 2, 3, 5-7, 9, 11, 12, 14-16, 18, and 20, Examiner has clearly set forth each and every claim and its corresponding location in the modified Mankey reference in the rejection set forth in paragraph 6 above.

### ***Conclusion***

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Thursday, 7am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a



Application/Control Number: 10/701,291

Page 16

Art Unit: 3782

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JML  
1/8/07

  
NATHAN J. NEWHOUSE  
SUPERVISORY PATENT EXAMINER